

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

THE ESTATE OF EMILY ANN)	
HARRISON, Deceased, by)	
Maranda Campbell,)	
Personal Representative and)	
M.R.H., a minor, by her)	
Guardians, Alice Harrison and)	
Maranda Campbell,)	
)	
Plaintiffs,)	
)	
vs.)	CAUSE NO. 2:14-CV-345
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER

This matter is before the Court on Defendant's Motion to Dismiss, filed by Defendant on January 16, 2015 (DE #22) and the Stipulation to Dismiss, filed by Plaintiffs on January 23, 2015 (DE #24). For the reasons set forth below, the Motion to Dismiss (DE #22) is **GRANTED**, and the Stipulation to Dismiss (DE #24) is **DENIED AS MOOT**. Plaintiffs' claims are **DISMISSED WITHOUT PREJUDICE**. The Clerk is **DIRECTED** to close this case.

Defendant, the United States of America, has filed a motion to dismiss arguing that Plaintiffs' medical malpractice lawsuit must be dismissed for failure to exhaust administrative remedies. Defendant points out that Plaintiffs submitted their administrative claim to the U.S. Department of Health and Human Services ("HHS")

on July 22, 2014. (Comp. ¶ 7.) The lawsuit was filed approximately three months later on September 22, 2014. (See DE #1.) The filing was prior to the either a denial by HHS or the expiration of the six month adjudicatory period. (See 28 U.S.C. § 2675(a).) Plaintiffs have filed a stipulation to dismiss noting that they have reviewed Defendant's motion and agree with its substance. (DE #24.)

Therefore, after due consideration, the Court **GRANTS** the Motion to Dismiss (DE #22). The Stipulation to Dismiss (DE #24) is **DENIED AS MOOT**. Plaintiffs' claims are **DISMISSED WITHOUT PREJUDICE**. The Clerk is **DIRECTED** to close this case.

DATED: January 27, 2015

/s/RUDY LOZANO, Judge
United State District Court